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ASP-8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Zhu, et al. Confirmation No.: 7471
Appln. No. : 09/810,872 Art Unit : 1743
Filed : March 16, 2001 Examiner : Cross, LaToya I.

Title : METHOD FOR RAPIDLY ASSAYING
ALDEHYDE-CONTAINING DISINFECTANT

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May 24, 2004
(Date of Deposit)

Andrew C. Farmer
(Name of applicant, assignee, or Registered Representative)

(Signature)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Dear Sir:

This paper is filed responsive to the Office Action mailed February 24, 2004. Claims 1 to 7, 10 to 23, and 25 to 33 are pending in this application. Claims 15 to 23, 25 to 29 and 31 are withdrawn from consideration. Claims 1 to 7, 10 to 14, 30 and 32 to 33 are before the Examiner. Presently, claims 1 to 7, 10 to 12, 14 and 30 stand rejected under 35 U.S.C. §102(b) over the Opp U.S. Patent No. 4,471,055. Claim 14 stands rejected under 35 U.S.C. §103(a) over Opp in view of the McAlister et al. U.S. Patent No. 4,703,763. Claims 32 and 33 stand rejected under 35 U.S.C. §103(a) over the Witonsky et al. U.S. Patent No.

4,521,376 in view of the Wu U.S. Patent No. 6,436,716. Applicants respectfully traverse the rejections and request reconsideration and reexamination of the application.

The Examiner has made some observations as to the clarity of the claims. Applicants are not sure they understand the Examiner's concerns. If the Examiner finds the claims patentable over the art Applicants request a teleconference with the Examiner to discuss the claim language.

Applicants have discovered a unique method for determining whether an aldehyde solution has sufficient strength. In this method, although the first and second reactions occur essentially sequentially, a user does not have to manually perform these reactions in sequential order as the chemistry of the first and second reactions handles this automatically. None of the references which were cited in the office action teach or suggest this unique and valuable method.

The Examiner has rejected claims 1 to 7, 11, 12, 14 and 32 under 35 U.S.C. § 102(b) as being anticipated by Opp. Applicants respectfully submit that Opp does not teach all of the claim limitations. Specifically, Opp does not teach having the first reactant perform its reaction in the presence of the second reactant. Rather, Opp teaches away from such a reaction system. In column 5 starting at line 29, Opp describes how in his invention the reaction rates are similar thus requiring some means for allowing the first reaction to complete before initiating the second reaction. The first reaction is shielded from the second reactant either by manually withholding application of the second reactant or by encasing the second reactant in such a fashion as to prevent its immediate dissolution and thus shielding the first reaction from the presence of the second reactant. Accordingly, Opp cannot anticipate as Opp does not teach the limitation of performing the first reacting step in the presence of the second reactant.

The Examiner asserts that at column 2, lines 24-32 and at column 3, lines 19 to 24, Opp teaches the concept of performing the first reaction in the presence of the second reactant. The first cited section of Opp makes no such teaching. Rather, it describes the

overall outcome. Opp later describes the aforementioned shielding of the second reactant to achieve this goal. Accordingly, the first reaction does not occur in the presence of the second reactant. The second cited section of Opp describes reaction kinetics, yet fails to enable such a scenario. Accordingly, Opp is not in the prior art as anticipatory reference as Opp is not an enabling reference.

Neither would Opp make the claimed invention obvious. Despite the discussion cited in column 3, Opp not only fails to enable such scenario but actually teaches away from it. All of the examples assume reaction kinetics could only be found which would not allow the first reaction to complete before being adversely affected by the second reactant.

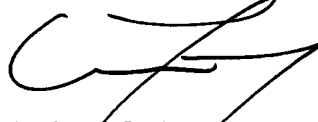
The Examiner has rejected claim 14 under 35 U.S.C. §103 over Opp in view of McAlister. There is no suggestion for making the alleged combination and even if made it would not reach the claimed invention. There is no suggestion in either McAlister et al. or Opp for combining these two references. There is no suggestion in McAlister et al. of utility of its syringe for anything other than drawing blood and those in the aldehyde analyzing arts would not be expected to look to the art of blood sampling for a solution to their problems. More importantly, McAlister et al. add nothing to the teaching of Opp regarding the step of performing the first reacting step in the presence of the second reactant. Accordingly, the alleged combination fails to teach or suggest the claimed invention.

The Examiner has rejected claims 32 and 33 under 35 U.S.C. §103(a) over Witanski et al. and Wu. This combination does not reached the claimed invention. Claim 32 defines "reacting the OPA in the test sample with an amount of a salt of bisulfite in a first reacting step...wherein the first reacting step occurs in the presence of the compound having an amino group...." The combination does not teach this step. Rather than two reactions as claimed by Applicants, the combination requires three reactions as described in Wu at column 2, lines 39 to 52. The second reaction produces the sodium glycinate which the Examiner has analogized to the present claimed second reactant (compound having an amino group). Since this is produced as a result of the first reaction, it is not present during the first

reaction, rather it is formed as a product of the first reaction. Accordingly, Witanski et al. and Wu cannot make obvious Applicants' claimed method.

Applicants submit that the application is now in condition for allowance. Favorable reconsideration and early notice of allowance are earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Farmer', written over a horizontal line.

Andrew C. Farmer

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